

REMARKS

The specification and claims have been amended herewith to address the concerns of the Examiner as set forth in the Office Action dated June 9, 2010. New claims 26-35 have been submitted herewith. The new claim set is believed to be in condition for immediate allowance.

Support for the language in new claims 26-35 may be found, for example, as follows. Recitation of the sequential sequences of SEQ IDs NO 15-18 (now rendered as SEQ ID NOs 35, 16, 36 and 37 due to renumbering of the SEQ ID NOs herewith) appeared, for example, in original claim 21, now canceled. The family origins recited in new claim 27 appeared, for example, in original claim 5. Support for the language “increase in any or all of above-ground area, number of first panicles, number of filled seeds or total seed weight per plant” may be found for example on page 34 of the specification, in which exemplary comparative results obtained according to Example 1 are shown in Tables 1-4. The remaining new claims parallel previously pending claims which the Examiner has already considered.

New claim 26 is a proper generic claim which identifies a method of transforming a plant cell using a seedyl nucleic acid sequence, which overall sequence is not only selected from a group consisting of three sequences (SEQ ID NOs 1, 5, and 7) but the common (consensus) features of those three sequences are set forth as SEQ ID NOs 35, 16, 36 and 37 (the former SEQ ID NOs 15-18). The elected species of SEQ ID NO. 1 is a representative species of the claimed genus and upon examination of SEQ ID NO 1 in context the generic claim will be seen to be allowable. Upon allowability of generic claim 26 applicant looks forward to examination and allowance of the remaining species of SEQ ID NOs 5 and 7 as the seedyl nucleic acid sequence set forth, with two additional species' representing a reasonable additional number of species to examine in this application.

All of the new claims are directed to the elected invention. A new Sequence Listing in both paper and computer readable form is submitted herewith, together with a “Statement to Support Filing and Submission in Accordance with 37 C.F.R. Sections 1.821-1.825.” The new Sequence Listing should be substituted for the previous pending Sequence Listing starting immediately after page 34 of the specification. The specification has been amended to remove hyperlinks. The necessary brief descriptions of the Figures have been

added to the specification to identify SEQ ID NOs where needed. None of the new claims recites a *seedy1* nucleic acid or a corresponding *seedy1* protein sequence without specifying detailed underlying sequence information to make the claim definite as to what *seedy1* nucleic acid (or protein) sequence is meant. In particular, the word “represent” does not appear in the new claims.

Regarding the asserted Section 102 anticipation rejection, the claims now set forth objective distinctions over any arguably inherent disclosure contained within the Inze reference (2002, Pub. No.: US 2005/0221290 A1). Method claim 26 requires the method steps of transforming, expressing, regenerating and identifying (screening) for an end result which is a quantified improvement that Inze 2002 does not teach or suggest. Claim 31 sets forth the genetic construct including the *seedy1* nucleic acid sequence as specifically claimed together with a one or more control sequences capable of regulating expression of the nucleic acid of and optionally a transcription termination sequence. The Inze 2002 prior art reference identifies a number of sequences, but as to its SEQ ID NO 82 there is no teaching in Inze 2002 to choose SEQ ID NO 82 specifically or to use it in the method steps or genetic construct as claimed in the new claims submitted herewith. Therefore, and consonant with *Integra LifeSciences I Ltd. v. Merck KgaA*, 50 USPQ 1846, 1850 (DC S Calif 1999), the prior art does not in this case teach all of the required steps to practice the claimed method and additional manipulation is required to produce the claimed result.

If the Examiner has any remaining concern prior to allowing the present claims, he should please call Barbara E. Johnson at 412-281-3350 direct dial.

Respectfully submitted,

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